BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC

In re Applications of Deas Communications, Inc., et al.	)	MM Docket No. 92-111
	)	File Nos. BPH-910208MB et al.
For A Construction Permit For A New FM Station on Channel 240A Healdsburg, California	)	

To: Hon. Edward J. Kuhlmann,
Administrative Law Judge

RESPONSE TO ORDER TO SHOW CAUSE

Healdsburg Broadcasting, Inc. ("HBI"), by its attorney and pursuant to Memorandum and Opinion And Order ("Order") FCC 92M-782 issued July 14, 1992 and to be released July 16, 1992, responds to the Order to Show Cause noted at paragraph 3 and reiterated in an Ordering Paragraph at p. 3.[1] The Order to Show Cause notes that HBI's June 19, 1992 Amendment, which was rejected, contained an error concerning the radiation pattern of HBI's directional antenna as pointed out by the Mass Media Bureau in its June 30, 1992 Opposition to HBI's Petition For Leave To Amend. See Order at para. 3. Undersigned counsel received the Bureau's Opposition on July 3, 1992 and forwarded it to both of HBI's consulting engineers, Stephen C. Petersen P.E. and Hatfield & Dawson. As discussed below, they determined that the error noted by the Bureau was the result of a typographical error contained in information provided Mr. Petersen by Jampro

[1]In light of the short time period, five days, to respond to the Order to Show Cause, counsel for HBI was provided a pre-publication copy of the Order by the presiding administrative law judge's office.

Antennas, Inc. ("Jampro"). During the intervening time between July 3, 1992 and receipt of the Show Cause Order yesterday, by facsimile, both Mr. Petersen and Benjamin Dawson of Hatfield & Dawson spoke with Jampro and obtained the correct information, and HBI was preparing a Request to Respond and Response to the Bureau's Opposition and that of Deas Communications, Inc. ("Deas"). Thus, as a result and as a matter of due diligence the presiding judge should note that certain of the attachments hereto bear dates prior to receipt of the Show Cause Order.[2] In addition and in that regard, concurrent herewith, HBI is filing a revised Amendment and Petition For Leave to Amend that corrects the errors noted by the Bureau which resulted from the Jampro typographical error described below.

B. Facts

The error noted by the Bureau in its Opposition is a result of a typographical error in the information provided HBI's consulting engineer, Stephen C. Petersen, concerning the radiation pattern of its directional antenna. Attached hereto is the statement and accompanying engineering information of Benjamin Dawson, of the engineering firm Hatfield & Dawson, (Attachment 1) stating that the August 13, 1991 engineering Pattern Envelope information (Attachment 2, pages 2-3 hereto) provided Mr. Petersen, by Jampro, contained typographical errors which conflicted with Jampro representations to Mr. Petersen in

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[2]HBI assumes that the other parties in this proceeding are not entitled to file an opposition to this Response. However, if oppositions are allowed, HBI reserves the right to file a reply.

other information it provided him -- that the slope of the Jampro pattern "will comply with known FCC rules" so that "a protection null will not exceed 2 dB per 10 degrees azimuth." See Attachment 2 at p. 1, the August 7, 1991 Original Jampro Antenna Data.

Mr. Dawson's statement is confirmed by Mr. Petersen's July 10, 1992 Declaration (Attachment 3 hereto) and the Declaration of July 10, 1992 of Eric Dye, Jampro staff engineer (Attachment 4 hereto). As Mr. Dawson indicates in his engineering statement, and as Mr. Dye confirms in his declaration, although the antenna pattern was intended by Jampro to be symmetrical around the 150 degree bearing, Jampro's typing error resulted in a relative field of 0.64 rather than 0.62 in the relative field value for 190 degrees, resulting in incorrect interpolated values for 185 and 175 degrees in the June 19, 1992 HBI amendment. See Dawson Statement, Attachment 1 at p. 1.

Mr. Dawson goes on to state that Jampro has provided him with the corrected data table and pattern plot which is Attachment 5 hereto. In turn, Mr. Dawson and undersigned counsel provided Mr. Petersen the corrected Jampro data and in the revised Amendment, submitted concurrent herewith, Mr. Petersen has corrected the errors which the Jampro typographical error caused. As Mr. Dawson further concludes, the changes should be characterized as "trivial" and are of no decisional significance in relation to the processing of the amendment or Commission procedures. Attachment 1 at p.2. Additionally, as Mr. Dawson

notes, the Jampro corrections allow HBI to meet the sole objection of the Mass Media Bureau. Id. Finally, Mr. Dawson notes that he, himself, did not find the radiation pattern errors despite the fact that HBI hired him to make sure that the June 19, 1992 Amendment met the specific antenna height and contour overlap concerns raised in the Hearing Designation Order DA 92-577 released May 20, 1992 ("HDO"), which in fact it did. See Attachment 1 at p. 1. See also Bureau June 30, 1992 Opposition.

C. Argument

HBI should not be dismissed from this proceeding. As the Facts above indicate, the Jampro typographical error was so technical and esoteric that two sets of reputable consulting engineers did not find it when addressing the Bureau's stated concerns in the HDO. Although it is true that the HDO required HBI to amend its application to cure defects in its application, not conflict with any other application, and not be unacceptable for filing, or face probable dismissal, it is important to note that HBI's June 19, 1992 amendment met the HDO's specific concerns, curing the antenna height and contour overlap deficiencies. See HDO Ordering Paragraph 20.[3] HBI's failure to remedy a de minimis radiation pattern error which the Bureau did not note in its review of HBI's initial and amended Application in the HDO is so minor as not to per se render the proffered

[3]The ordering paragraph of the HDO makes clear, as distinct from paragraph 9 of the HDO discussion, that the Bureau's stated concern was the contour overlap and antenna height problem, which the June 19, 1992 amendment corrected.

Amendment unacceptable for filing.

First, it should be reiterated, as the Bureau states in its June 30, 1992 Opposition, that the June 19, 1992 Amendment corrects the defects noted in the HDO, namely the antenna height and contour overlap deficiencies as set forth in Ordering Paragraph 20 therein. Second, neither the June 19, 1992 Amendment nor the concurrent revised Amendment run afoul of the Commission's "hard look" processing guidelines. See Report and Order Related To Processing of FM and TV Applications MM Docket No. 84-750, 50 FR 19936 (1985), 58 P&F 2d 776, recon. denied, 50 FR 43157 (1985) & Statement of New Policy Regarding Commercial FM Applications That Are Not Substantially Complete or Otherwise Defective ("Hard Look Order") 50 FR 19445, 58 P&F 2d 166 (1985). All of the elements of engineering data required for acceptability are correctly contained in the June 19, 1992 amendment, e.g. HAAT, actual antenna location, maximum ERP, geographic location of HBI's transmitter site and antenna type and manufacture (among other things). Hard Look Order, supra, at 58 P&F 2d 167-168. Correction of the "trivial" error as noted in Attachment 1, and in the concurrent Amendment filed herewith, does not rise to the level of such heinous error, as to warrant the drastic action of dismissal. See e.g. WADECO, Inc. v. FCC 47 RR2d 177, 182-183 and (Mikva Dissent) 183-186 (D.C. Cir. 1980).

The presiding judge has the authority to accept the corrected Amendment, nunc pro tunc, under Commission precedent. Indeed, Commission precedent also supports not dismissing HBI and

accepting its proffered corrected amendment. Magdalene Gunden Partnership, 2 FCC Rcd 5513, 5515 paras. 7-8; 63 RR2d 1647 (Rev. Bd. 1987) recon. denied 3 FCC Rcd 488; rev. denied on other grounds, 3 FCC Rcd 7186 (1988) pet. for recon. denied, 5 FCC Rcd 2509 (1990) aff'd in part and reversed and remanded in part 69 RR2d 613, 615-616, sub nom Marin TV Services Partners, Ltd. v. FCC (D.C. Cir. 1991).

In Gunden, the Board held that good cause existed for the acceptance of an amendment after issuance of a designation order in a comparative hearing and after the specification of a city grade coverage issue against an applicant, North Bay, concluding that North Bay's actions to correct its major problem within seven weeks was prompt and duly diligent. 63 RR2d at paras. 8-9. Equally as important, the Board also agreed with the presiding judge that despite fact that North Bay's engineer did not follow either his own normal or good engineering practices concerning North Bay's original site (the cause of North Bay's problem), North Bay was entitled to and did rely upon their engineer's recommendation on a highly technical matter. Id. at paras. 6-9. Thus, the Board concluded that it would be unfair to saddle an applicant with the failure of its professional engineer with regard to "an issue of a highly technical and esoteric error," which when corrected, provided the required city grade coverage. Ibid. The D.C. Circuit, in turn, affirmed both the Board and the Commission stating that the expert could not have foreseen the technical issues and the necessity to amend its application and

that North Bay was entitled to rely on its expert. Marin TV Services Partners, Ltd. v. FCC, supra.

HBI's facts are much less egregious than North Bay's. Here, the technical error is much more esoteric, yet much less significant than city grade coverage, a sine qua non of both acceptance and grant of an application. Moreover, the error originates not with its expert consulting engineer but with typographical errors from the antenna manufacturer, itself. Not even HBI's additional expert engineers, Hatfield & Dawson could recognize the errors in HBI's June 19, 1992 Amendment which they reviewed prior to its filing (see Attachment 1 at p.1.), because they, like Stephen C. Petersen, were not aware of the existence of those typographical errors. Moreover, as in the case of Magdalene Gunden Partnership, the typographical errors, when corrected, permit the correct calculated values to be determined so that HBI would, as noted, have been in compliance with the requirements of Section 73.316 of the Commission's rules, but for an outside third party's typographical errors. Magdalene Gunden Partnership, supra.[4]

Thus, as stated in the concurrent Petition For Leave To Amend, good cause exists for acceptance of the attached corrective data under sections 73.3514 and 73.3522 of the

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[4]See also March 17, 1988 letter from the Bureau to B. Jay Baraff (Attachment 6 hereto) wherein the Bureau accepted, nunc pro tunc, an application because of discrepancy in site coordinates where the applicant and its engineers relied on coordinates from an actual land survey supplied by the City of Trinity which deviated from those portrayed in the U.S.G.S. map.

Commission's rules. HBI has acted with diligence, within a twelve (12) day period after notice of the error as contained in the Bureau's Opposition[5] -- compare the seven (7) week period in Magdalene Gunden Partnership. The corrected concurrent amendment does not result from a voluntary act by HBI. Indeed, the amendment is two steps removed from the purview of HBI since it occurred as a result of a typographical error from the manufacturer of the proposed directional antenna upon which HBI's engineer reasonably relied and which as the Jampro (Dye) declaration and associated material indicates, was represented to comply with Commission rules and, in fact would have, but for the Jampro typographical error.

HBI's amendment will clearly not require modification or enlargement of the issues and will not disrupt the orderly processes of the hearing, because the hearing schedule has been set with which HBI is and will comply. Likewise, the amendment neither claims to nor does it afford HBI any comparative advantage nor will it prejudice any other party to the proceeding since the correction of the typographical error and associated engineering calculations has no impact on the other applicants in this proceeding. Moreover, its acceptance preserves the Commission's choice among competing applicants. Ashbacker Radio Corp. v. FCC, 326 U.S. 327 (1945).

As the D.C. Circuit noted in a dissimilar fact pattern in

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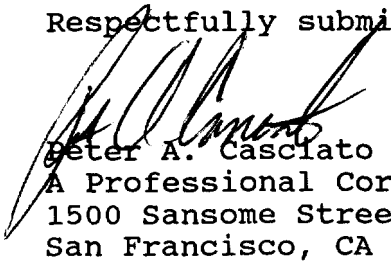
[5]As stated previously, the Bureau's Opposition is dated June 30, 1992 and was not received by undersigned counsel until July 3, 1992.

WADECO v. FCC, supra, good faith reliance on the errors of counsel "may render too harsh a severe sanction like disqualification." (citation omitted) 47 RR2d 182; see also (Mikva Dissent) -- technical violations of Section 1.65 and reliance on counsel do not warrant disqualification (Id. at 186). Here, HBI's reliance is not on counsel but on two expert engineers and a third party manufacturer for a matter of an esoteric and technical nature, whose origination was outside the control of the applicant and both of its expert consulting engineers. Certainly these facts do not warrant the ultimate sanction of dismissal of HBI's application from this proceeding as the D.C. Circuit recognized in Marin TV Services Partners, Ltd. v. FCC, supra. See also Magdalene Gunden Partnership, supra; WADECO v FCC, supra.

HBI has expended significant time and resources in this proceeding and diligently wishes to continue to prosecute its application. Thus, it respectfully requests that the presiding judge not dismiss its application based on this highly technical error and allow it to continue in this proceeding by accepting

the corrected amendment nunc pro tunc.[6]

Respectfully submitted,



Peter A. Casciato
A Professional Corporation
1500 Sansome Street Suite 201
San Francisco, CA 94111
(415) 291-8661

Counsel to Healdsburg
Broadcasting, Inc.

July 15, 1992

[6]Although not required, in light of the presiding judge's Order not accepting the June 19, 1992 Amendment, HBI also submits a second declaration addressing the Deas June 29, 1992 Opposition concerns, point by point refuting them. See Attachment 7 hereto.

ATTACHMENT 1

ENGINEERING STATEMENT

This Engineering Statement has been prepared on behalf of Healdsburg Broadcasting Incorporated ("HBI"), an applicant for a new FM broadcast station at Healdsburg, California, File No. BPH-910211 MB.

On June 19, 1992, HBI filed a Petition for Leave to Amend its application, in order to correct minor discrepancies in its application which had been noted in the Hearing Designation Order 7FCC Rcd 3135 (1992). To make sure that the Amendment met the concerns raised in the HDO, the Amendment was reviewed by this firm for these discrepancies and, as noted in the Mass Media Bureau's Opposition dated June 30, 1992, the Amendment has met them.

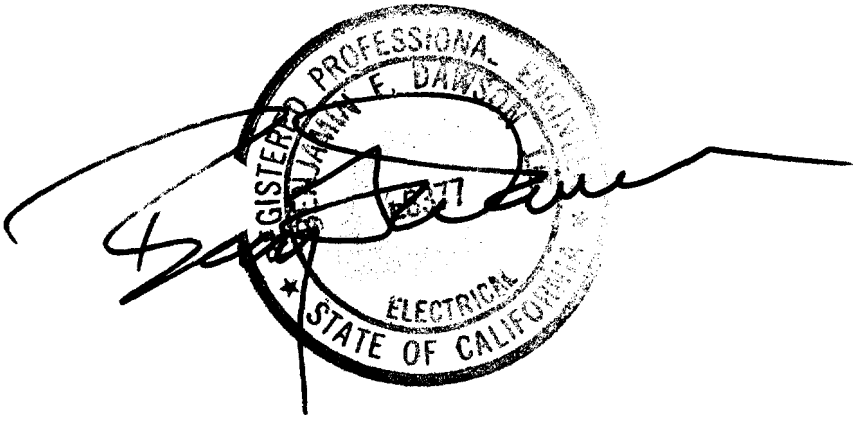
Associated with the amendment material was the revised directional antenna pattern which HBI proposed, meeting thereby the requirements of §73.215 with respect to KKHI(FM) San Francisco. The antenna pattern proposed is an "envelope" pattern, whose limits will not be exceeded by the actual measured antenna pattern. This envelope pattern was supplied to the applicant's consulting engineer, Stephen Petersen, by Jampro Antennas, Inc. Mr. Petersen's separate declaration in this regard is included as Attachment 4. The original pattern data supplied by Jampro is incorporated into this Engineering Statement as Attachment 2. This data was supplied at azimuthal increments of 10°, with additional data at the standard application azimuths of 45, 135, 225, and 315 degrees, true. As Mr. Peterson indicates in his declaration, in an attempt to produce more realistic coverage contour depictions he provided interpolated antenna pattern data at the additional 5 degree increment bearings.

Unfortunately, although the antenna pattern data was intended by Jampro to be symmetrical around the 150 degree bearing, Jampro made a typing error in the relative field value for 190° degrees true, and specified a relative field of 0.64 rather than 0.62. This error was propagated into the applicant's consulting engineer's interpolation values, and as a consequence incorrect interpolated values for 185 degrees and 175 degrees were specified in the material used as a part of the 6/19/92 amendments.

Jampro has supplied a corrected data table and pattern plot, included in this showing as Attachment 5, and a declaration regarding their data error, Attachment 3.

As noted above, the changes supported by this Engineering Statement are trivial, and are believed to have no decisional significance with respect to processing of the application. By correction of the antenna manufacturer's data typing error, the objections of the Mass Media Bureau outlined in its Opposition to Petition for Leave To Amend dated 6/30/92, are fully met with respect to 73.316(b)(2), the "2db per 10 degree" rule.

JULY 8, 1992



Benjamin F. Dawson, III, P.E.

ENGINEERING NOTES
STEPHEN C. PETERSEN, P.E.
DATE: 8/24/91 PAGE: 3

JAMPRO ANTENNAS, INC. 6939 Power Inn Road, P.O. Box 28425, Sacramento, CA 95828 (916) 383-1177 FAX (916) 383-1182

DATE 8-7-91

CIRCULARLY POLARIZED DIRECTIONAL FM ANTENNA FOR:

STATION: _____

LOCATION: _____

ANTENNA MODEL: JMPC-2

ATTACHMENT 2
PAGES 1,2,3
"ORIGINAL JAMPRO ANTENNA DATA"

PATTERN ENVELOPE

JAMPRO proposes to custom build and directionalize a standard FM side mount antenna to meet this stations needs. The final patterns of the Hpol and Vpol will remain within the given pattern envelope.

DESCRIPTION OF TEST

JAMPRO will build or utilize an exact duplicate of support structure for testing, paying close attention to details, such as including other present structures, such as climbing steps etc.

JAMPRO will preform all testing in full scale on their full scale test range. JAMPRO will add parasitics to the environment to manipulate the pattern to meet all requirements. All brackets and parasitics will be hot dipped galvanized steel to ensure good contact and long life.

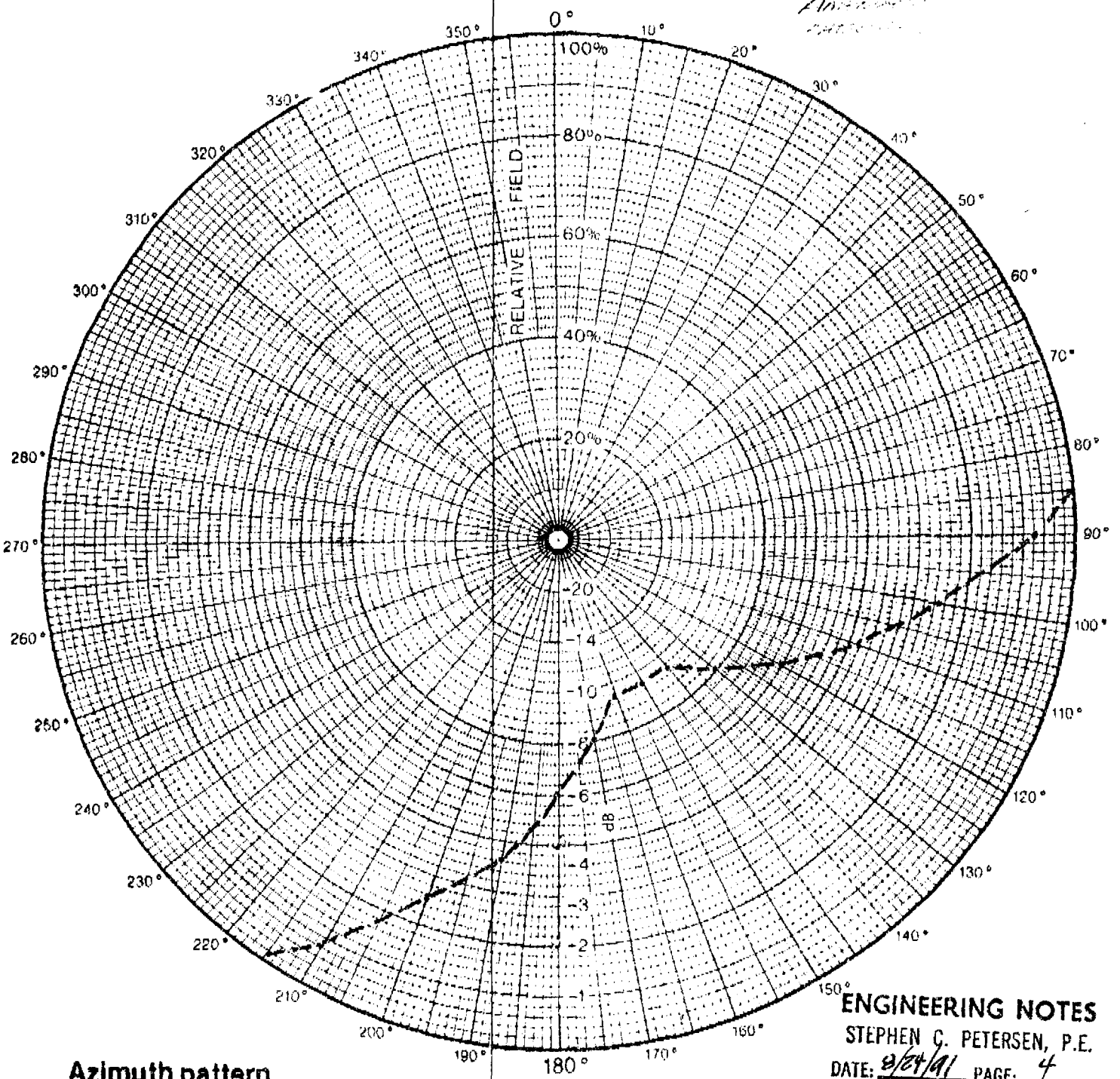
JAMPRO will provide a final certification and complete installation drawings of the system when all work is completed. Customer is instructed to follow all mounting instructions and have a licensed surveyor verify the heading of the antenna boom.

All testing will be under the direct supervision of Eric Dye, JAMPRO's Staff Engineer. He holds a Bachelor of Science Degree in Electrical Engineering, and has been working with building directional antennas for 3 years.

RULE COMPLIANCE

JAMPRO will comply with known FCC rules including those stated directly on the stations construction permit. The rules include the following:

1- The licensed ERP will not be exceeded at any heading
2- The slope of the pattern from a protection null will not exceed 2 dB per 10 degrees azimuth
3- The rms of the Vpol will not exceed the rms of the Hpol
4- The maximum to minimum signal will not exceed 15 dB



ENGINEERING NOTES
STEPHEN C. PETERSEN, P.E.
DATE: 8/24/91 PAGE: 4

Azimuth pattern

Customer Date

Frequency Type Number

Elev. Gain Azimuth Directivity Major Lobe Gain

Notes:

JAMPRO ANTENNAS, INC.

ATTACHMENT 2 pg.2

JAMPRO ANTENNAS, INC.

ENGINEERING NOTES
STEPHEN C. PETERSEN, P.E.
DATE: 9/24/91 PAGE: 5

COMPOSITE ENVELOPE
ERP = 0.48 KW

JMPC-2
8-13-91

AZIMUTH	FIELD	dBd	ERP	dBK
0	1.000	0.00	0.48	-3.19
10	1.000	0.00	0.48	-3.19
20	1.000	0.00	0.48	-3.19
30	1.000	0.00	0.48	-3.19
40	1.000	0.00	0.48	-3.19
50	1.000	0.00	0.48	-3.19
60	1.000	0.00	0.48	-3.19
70	1.000	0.00	0.48	-3.19
80	1.000	0.00	0.48	-3.19
90	0.920	-0.72	0.41	-3.91
100	0.750	-2.50	0.27	-5.69
110	0.620	-4.15	0.18	-7.34
120	500	-6.02	0.12	-9.21
130	.400	-7.96	0.08	-11.15
140	0.330	-9.63	0.05	-12.82
150	0.330	-9.63	0.05	-12.82
160	0.330	-9.63	0.05	-12.82
170	0.400	-7.96	0.08	-11.15
180	0.500	-6.02	0.12	-9.21
190	0.640	-3.88	0.20	-7.06
200	0.750	-2.50	0.27	-5.69
210	0.920	-0.72	0.41	-3.91
220	1.000	0.00	0.48	-3.19
230	1.000	0.00	0.48	-3.19
240	1.000	0.00	0.48	-3.19
250	1.000	0.00	0.48	-3.19
260	1.000	0.00	0.48	-3.19
270	1.000	0.00	0.48	-3.19
2[illegible]	1.000	0.00	0.48	-3.19
2[illegible]	1.000	0.00	0.48	-3.19
300	1.000	0.00	0.48	-3.19
[illegible]0	1.000	0.00	0.48	-3.19
[illegible]	1.000	0.00	0.48	-3.19
[illegible]	1.000	0.00	0.48	-3.19
[illegible]	1.000	0.00	0.48	-3.19
350	1.000	0.00	0.48	-3.19

FEILD STRENGTH OF THE OTHER RADIALS

45	1.000	225	1.000
135	0.360	315	1.000

ATTACHMENT 2 pg.3

ATTACHMENT 3

JAMPRO ANTENNAS, INC.
6340 Sky Creek Drive, Sacramento, California 95828
P.O. Box 292880, Sacramento, California 95829-2880
(916) 383-1177 FAX (916) 383-1182

DECLARATION

I, Eric Dye, hereby declare as follows:

1. I am employed as a staff engineer with the RF Engineering Division of Jampro antennas, Inc.

2. On or about August 7, 1991, in response to an inquiry to Jampro from Stephen C. Petersen, P.E., I sent to him information for a Jampro circularly polarized directional FM antenna to be used for Healdsburg Broadcasting, Inc. This was a follow-up inquiry from Mr. Petersen for this material since Jampro had furnished him the same kind of information in February, 1991 for Healdsburg Broadcasting, Inc.

3. On the Pattern Envelope page under Rule Compliance item 2, the material inserted there concerning the slope of the pattern noted "from a protection null will not exceed 2 dB per 10 degrees azimuth". The provided Pattern Envelope information was intended to be correct. The envelope information provided on August 13, 1991, however, contained typographical errors.

4. I was contacted by Mr. Petersen and Ben Dawson this week and made aware of the errors. As a result, I have forwarded to Ben Dawson a corrected table of the Composite Envelope. It should be noted that the Envelope was made with sufficient suppression for comfortable interference protection, and the slope does not exceed 2 dB/decade. As illustrated, the envelope is symmetrical with the suppression centered at 150 degrees.

I declare under penalty of perjury that the foregoing is true and correct.

Executed July 10, 1992

Eric Dye
RF Engineering
JAMPRO ANTENNAS, INC.
P.O. Box 292880
Sacramento, CA 95829

DECLARATION OF STEPHEN C. PETERSEN

I, Stephen C. Petersen, hereby declare as follows:

1. In August, 1991, I requested Information from Jampro Antennas, Inc. to prepare an engineering amendment for a circularly polarized antenna for Healdsburg Broadcasting, Inc. ("HBI"). I had previously requested similar material from Jampro in January, 1991 when preparing the original engineering for HBI. Shortly after August 7, 1991, I received Jampro's initial information which described the Pattern Envelope and indicated in the Rule Compliance Section "the slope of the pattern from a protection null will not exceed 2 dB per 10 degrees azimuth."[1]

2. Shortly after August 13, 1991 and after discussion with Jampro, I received a pattern from Jampro (labelled "Composite Envelope")[2] that, by design, met radiation requirements to adequately protect first adjacent channel station KKHI-FM with a symmetrical null centered at 150 degrees azimuth. I checked several bearing intervals for proper slope on both sides of the null and found them to be less than the required 2.0 dB per 10 degrees azimuth change and based on the fact that the pattern was symmetrically designed, I concluded that it was satisfactory.

3. I subsequently transcribed the composite field entries into a tabulation contained in Exhibit 3, page 2 of the September

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[1]This is page one of Attachment 2, marked at the top as my engineering notes "p. 3, 8/24/91." I organized my engineering notes for this project on or about 8/24/91 as the notes indicate.

[2]As indicated in footnote 1, this page bears my engineering notes organization date of 8/24/91 and is labelled page 5 at the top.

25, 1991 HBI amendment, where they are specified at azimuth intervals of 10 degrees, beginning at 0 degrees, and at 45 and 135 degrees. Intermediate bearings between those contained in Jampro's Composite Envelope tabulation were introduced to provide a showing with relative fields at every 5 degrees azimuth. These intermediate quantities, as conveyed by note 1, in Exhibit 3, page 1 of the HBI Amendment, were calculated with a standard cubic spline mathematical algorithm. This technique produces an accurate best fitting smooth curve joining Jampro's essential points. The bearings based on the Jampro information remain unchanged in HBI's June 19, 1992 Engineering Amendment (except for the correction of a typographical error at 130 degrees azimuth),[3] which I prepared, and which was reviewed for accuracy prior to submission by Hatfield & Dawson to confirm that it met the issues raised in the Hearing Designation Order in the Healdsburg proceeding.

4. On July 5, 1992, I received the Mass Media Bureau's Opposition to the HBI June 19, 1992 Amendment from HBI's attorney. I reviewed the objection of the Bureau contained therein and contacted Jampro. I spoke with Eric Dye on July 9, 1992, concerning the engineering material in the Bureau's Opposition and he indicated to me after review of the August, 1991 data that the August 7, 1991 Rule Compliance section was

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[3]Although this typographical error existed in Exhibit 3 in the September 25, 1991 HBI Amendment, this quantity was correctly reported in that same amendment in Exhibit 4, and in Exhibit 4 to the June 19, 1992 Amendment.

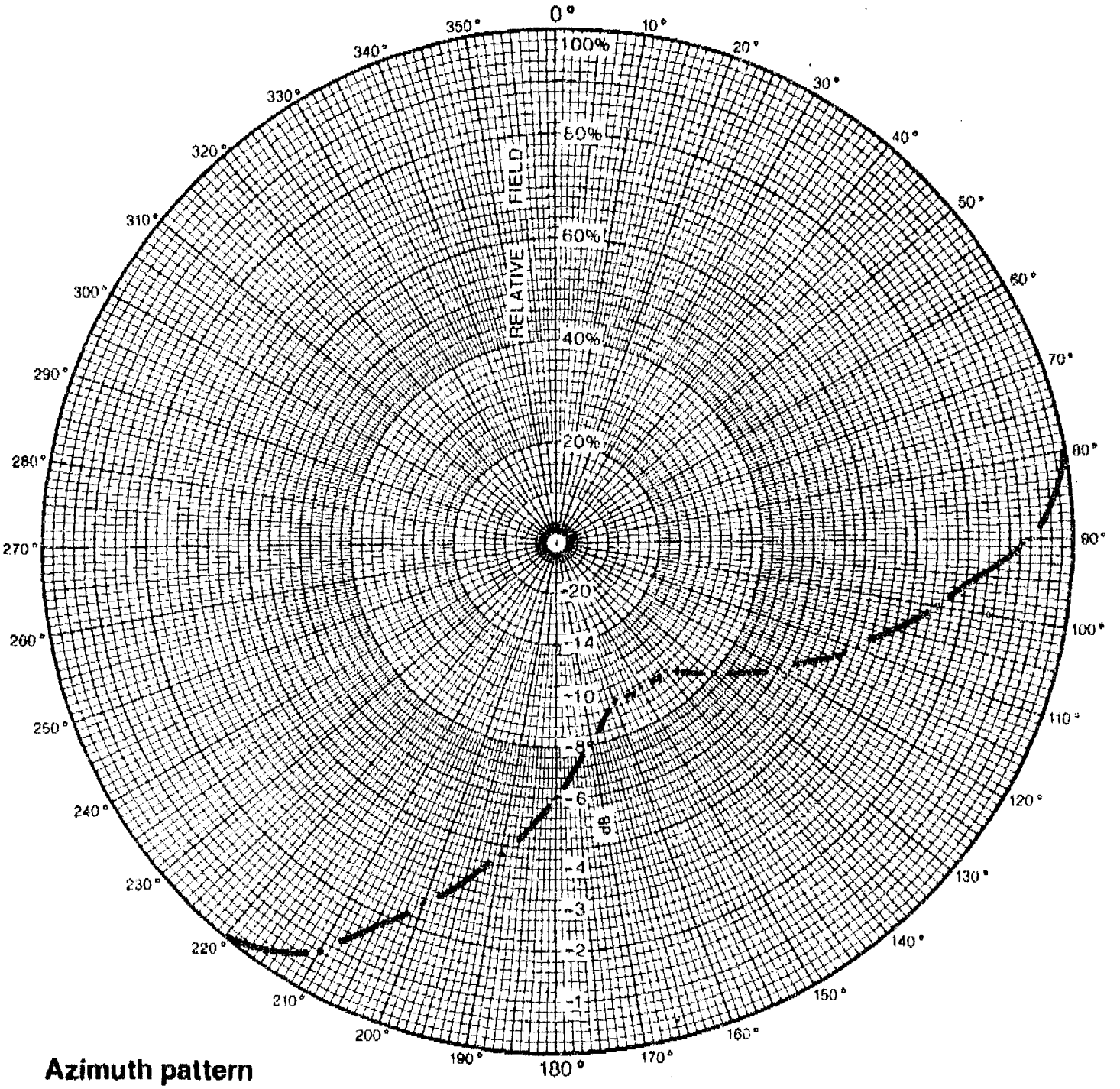
Jampro's intent but that the August 13, 1991 Composite Pattern Envelope contained typographical errors. As a result, this made my calculations in the HBI June 19, 1992 Amendment incorrect as noted in the engineering statement of Hatfield & Dawson.

I declare under penalty of perjury that the foregoing is true and correct.

Executed July 10, 1992.

Stephen C. Petersen

Stephen C. Petersen



Azimuth pattern

Customer: Date: 7- 7-92

Frequency: Type Number: JMPC-2

Elevation Gain: Azimuth Directivity: Major Lobe Gain:

Notes: Composite pattern envelope - 0 degrees = True North

ATTACHMENT 5
"CORRECTED JAMPRO ANTENNA DATA"

JAMPRO ANTENNAS, INC.
6340 Sky Creek Drive, Sacramento, CA 95828
P.O. Box 292880, Sacramento, CA 95829-2880
(916) 383-1177 Fax: (916) 383-1182

JAMPRO ANTENNAS, INC.
6340 Sky Creek Drive, Sacramento, California 95828
P.O. Box 292880, Sacramento, California 95829-2880
(916) 383-1177 FAX (916) 383-1182

JMPC-2 JULY 7, 1992
PATTERN ENVELOPE
ERP = 0.48 KW
0 DEGREES = TRUE NORTH

AZIMUTH	FIELD	dB	ERP (KW)	(dBK)
0	1.00	0.00	0.48	-3.19
10	1.00	0.00	0.48	-3.19
20	1.00	0.00	0.48	-3.19
30	1.00	0.00	0.48	-3.19
40	1.00	0.00	0.48	-3.19
50	1.00	0.00	0.48	-3.19
60	1.00	0.00	0.48	-3.19
70	1.00	0.00	0.48	-3.19
80	1.00	0.00	0.48	-3.19
90	0.92	-0.72	0.41	-3.91
100	0.75	-2.50	0.27	-5.69
110	0.62	-4.15	0.18	-7.34
120	0.50	-6.02	0.12	-9.21
130	0.40	-7.96	0.08	-11.15
140	0.33	-9.63	0.05	-12.82
150	0.33	-9.63	0.05	-12.82
160	0.33	-9.63	0.05	-12.82
170	0.40	-7.96	0.08	-11.15
180	0.50	-6.02	0.12	-9.21
190	0.62	-4.15	0.18	-7.34
200	0.75	-2.50	0.27	-5.69
210	0.92	-0.72	0.41	-3.91
220	1.00	0.00	0.48	-3.19
230	1.00	0.00	0.48	-3.19
240	1.00	0.00	0.48	-3.19
250	1.00	0.00	0.48	-3.19
260	1.00	0.00	0.48	-3.19
270	1.00	0.00	0.48	-3.19
280	1.00	0.00	0.48	-3.19
290	1.00	0.00	0.48	-3.19
300	1.00	0.00	0.48	-3.19
310	1.00	0.00	0.48	-3.19
320	1.00	0.00	0.48	-3.19
330	1.00	0.00	0.48	-3.19
340	1.00	0.00	0.48	-3.19
350	1.00	0.00	0.48	-3.19
45	1.00	0.00	0.48	-3.19
135	0.36	-8.80	0.06	-11.99
225	1.00	0.00	0.48	-3.19
315	1.00	0.00	0.48	-3.19

ATTACHMENT 6 page one

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

MAR 17 1988

IN REPLY REFER TO:

8920-KS

REC'D MAR 21 1988

B. Jay Baraff
Lee J. Peltzman
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Baraff, Koerner, Olender & Hochberg, P.C.
2033 M Street, N.W.
Suite 203
Washington, D.C. 20036

In re: NEW(FM), Trinity, Alabama
Victoria Newman
d/b/a Radio Trinity
BPH-861215MA

Dear Counsel:

This refers to the petition for reconsideration, filed on behalf of Victoria Newman, d/b/a Radio Trinity, on September 10, 1987, wherein you request reconsideration of the August 5, 1987 action of the Chief, FM Branch, returning the subject application as unacceptable for filing.

That application was returned as unacceptable for filing after engineering study revealed that the geographic coordinates for the antenna site as listed in the application at Section V-B, Item 4 and Section V-G, Item 1— N Latitude 34° 35' 40" W Longitude 87° 05" 02"—did not match the location of the proposed site as provided by the U.S.G.S. 7.5-minute topographic site map — N Latitude 34° 35' 40" W Longitude 87° 05' 04".

In the petition, you assert that the applicant proposed to utilize an existing water tank owned by the city of Trinity, the coordinates for which were supplied by the city, and upon which you had reason to rely. You argue that because the coordinates supplied with the original application were based on an actual survey performed by the water tank's owner, they are presumptively reliable and correct.

We agree that the "discrepancy" between the location of the site as portrayed by the pre-printed symbol in the U.S.G.S. map and the coordinates provided by the actual survey arises only because the site portrayed in the U.S.G.S. map

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is erroneous. Furthermore, because the coordinates provided in the original application were based on an actual survey, we accept these coordinates — N Latitude 34° 35' 40" W Longitude 87° 05' 02" — as correct. Accordingly, the petition for reconsideration IS GRANTED to the extent that the application is reinstated nunc pro tunc for additional acceptability study. Furthermore, having found no other defects, the application is ACCEPTED FOR FILING.

Sincerely,

Dennis Williams

Dennis Williams
Chief, FM Branch
Audio Services Division
Mass Media Bureau

cc: Victoria Newman d/b/a Radio Trinity

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Engineering Statement

This Engineering Statement is filed on behalf of Healdsburg Broadcasting, Inc. ("HBI") in response to a "Declaration and Engineering Statement" filed by Deas Communications, Inc. ("Deas") as part of its Opposition to HBI's Petition for Leave to Amend its pending amended application for Construction Permit for a new FM broadcast station at Healdsburg, California, MM Docket No. 92-111. The "Declaration and Engineering Statement" ("Engineering Statement") filed by Deas asserts that the HBI amendment is "defective and incomplete". The basis for this statement is contained in several further assertions by Deas' technical witness, all of which are incorrect. These assertions are addressed point-by-point in this Engineering Statement, as follows:

1. "HBI has failed to file FAA Form 7460-1."

The criteria for determining whether applicants are required to notify the FAA of proposed construction are contained in §17.7 of the Commission's Rules. Applicants who propose to construct towers less than 60.96 meters (200 feet) in height above ground [§17.7(a)] and which do not penetrate any of the imaginary surfaces described in §17.7(b) are not required to notify the FAA of their proposed construction, nor are they required to file FAA Form 7460-1. The facilities proposed by HBI meet all the requirements of §17.7 of the Commission's Rules. The Commission routinely grants applications for which a 7460-1

form has not been filed whenever the criteria outlined in §17.7 are not exceeded. Neither the purported FAA policy cited by Deas' technical witness nor the FAA EMI criteria have been adopted following the procedures required by the Administrative Procedure Act, and the FAA policy and criteria have not been accepted by the FCC. Contrary to the assertions contained in the Deas Engineering Statement, the Commission's practice is to grant applications which meet the requirements of §17.7. The Commission has even granted FM applications specifically objected to by the FAA by including special conditions on the construction permits. Any proposal to amend Part 77 of the FAA Rules has absolutely no bearing on the filing requirements for applications filed before the proposed rules are adopted.

2. "HBI did not comply with all requests in the Hearing Designation Order"

The Deas Engineering Statement claims that the HBI amendment failed to cure the incorrect HAAT calculation contained in the original HBI application. The HBI amendment specifies an antenna radiation center of 509 meters AMSL and an antenna height above average terrain of 339 meters. This is the same AHAAT figure calculated by the Commission's processing staff, as stated clearly in Deas' own Engineering Statement.

3. "The HBI amendment [creates] overlap with the first adjacent channel station KYMX, Sacramento, California."

The transmitter site proposed by HBI meets the Commission's Class A to Class B spacing requirements with respect to KYMX(FM). The KYMX site is located 123.13 kilometers from the proposed HBI site. The required spacing specified in §73.207 of the Commission's